

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

JAVIER MARTINEZ-ROSADO

Petitioner

v.

UNITED STATES OF AMERICA

Respondent

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Civil No. 05-1367(SEC)

OPINION AND ORDER

Before the Court is Petitioner's motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255 (**Docket #1**). On May 27, 2005 the Court referred this case to Magistrate-Judge Aida Delgado-Colón for a Report and Recommendation (**Dockets ## 11-12**). On December 12, 2005 Magistrate Delgado-Colón issued her report, recommending that the petition be denied and the case be dismissed (**Docket # 16**). Petitioner has not filed any objections to the Magistrate's report and the time allotted for doing so has expired. Therefore, the Court will **APPROVE** and **ADOPT** the Magistrate's Report and Recommendation; **DENY** Petitioner's motion, and **DISMISS WITH PREJUDICE** the above captioned action.

The scope of review of a Magistrate's recommendation is set forth in 28 U.S.C. 63(b)(1)(c). This section provides that "[a] judge of the [district] court shall make a de novo determination of those portions of the report or specified findings or recommendations to which [an] objection is made." Id. However, no review is required of those issues to which objections are not timely raised. Thomas v. Arn, 474 U.S. 140 (1985), reh'g denied, 474 U.S. 1111 (1986); Borden v. Secretary of Health, 836 F.2d 4, 6 (1<sup>st</sup> Cir. 1987). In fact, a party who fails to file any objections to the Magistrate Judge's Report and Recommendation within ten days of its filing waives his or her right to appeal from this order. Henley Drilling Co. v. McGee, 36 F.3d 143, 150-51 (1st Cir. 1994). See also Rule 72 (d) of the Local Rules for the District of Puerto Rico.

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Neither party has objected to the Magistrate Judge's Report and Recommendation, thus we are not required by law to review it. However, upon review, we find no fault with Magistrate Judge Delgado-Colón's assessment and thus **APPROVE** and **ADOPT** her Report and Recommendation as our own. Consequently, Petitioner's motion is **DENIED** and the above captioned action will be **DISMISSED WITH PREJUDICE**. Judgment shall be entered accordingly.

**SO ORDERED.**

In San Juan, Puerto Rico, this 3<sup>rd</sup> day of January, 2006.

S/ *Salvador E. Casellas*  
SALVADOR E. CASELLAS  
U.S. Senior District Judge